

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6723**

**BILL NUMBER:** HB 1269

**NOTE PREPARED:** Jan 17, 2014

**BILL AMENDED:**

**SUBJECT:** HEA 1006-2013 Follow-Up.

**FIRST AUTHOR:** Rep. Steuerwald

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & local

**Summary of Legislation:** *Amelioration:* The bill specifies that persons who committed a crime before the effective date of HEA 1006-2013 are to be sentenced in accordance with the law in effect at the time the crime was committed.

*Technical Correction:* It conforms provisions dealing with nonsuspendibility and community corrections to the nonsuspendibility provisions of HEA 1006-2013.

*Possession of Methamphetamine:* It removes the "valid prescription" defense to the crime of possession of methamphetamine.

**Effective Date:** July 1, 2014.

**Explanation of State Expenditures:** *Start Date:* The bill would increase the full-year-equivalent stays by delaying the sentencing changes of HB 1006-2013 for crimes committed before July 1, 2014. The decreases in credit time and earned time would, however, take effect. Depending on the relative felony class penalty compared to the felony level penalty, offenders could serve a longer length of stay in a state correctional facility based on the reduced earnings of credits.

*Possession of Methamphetamine:* If more offenders are incarcerated as a result of the "valid prescription" defense being repealed, cost of incarceration could increase. There are no data available to indicate how many more offenders may be convicted of this Level 6 offense.

A Level 6 felony is punishable by a prison term ranging from 6 to 30 months or reduction to Class A

misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,386 in FY 2013. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,266 annually, or \$8.95 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$77,489 in FY 2013.

**Additional Information:** The number of offenders convicted of possession of methamphetamine, a Level 6 felony, and sentenced to a term of incarceration in a state facility is increasing. The table below shows the new commitments over the five-year period of 2008 to 2012 and the growth rate of offenders entering state correctional facilities during that period.

<b>CY</b>	<b>New Commitments Possession of Methamphetamine</b>
2008	13
2009	20
2010	66
2011	71
2012	161
<b>Growth Rate</b>	<b>88%</b>

**Explanation of State Revenues:** *Possession of Methamphetamine:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$7), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

**Explanation of Local Expenditures:** *Possession of Methamphetamine:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** *Possession of Methamphetamine:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited

in the county user fee fund.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

**Fiscal Analyst:** Karen Firestone Rossen, 317-234-2106.